

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KARLIS RUBEN AUGUSTUS  
HOWARD,

Plaintiff,

v.

RODRIGUEZ,

Defendant.

No. 1:24-cv-00285-JLT-SAB (PC)

ORDER DENYING PLAINTIFF'S MOTION  
FOR SUBPOENA DUCES TECUM AS  
PREMATURE

(ECF No. 23.)

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendant Rodriguez for failure to protect and negligence.

On August 22, 2024, Plaintiff filed, *inter alia*, a motion for subpoena duces tecum. (ECF No. 23.) Plaintiff's motion is premature and should not be filed with the Court. Although the Court has ordered service and CDCR has filed a notice of intent to waive, the waiver of service is not due until September 25, 2024. (ECF Nos. 17, 22.) As Plaintiff was notified in the Court's first informational order, an order opening discovery is issued once an answer is filed. (ECF No. 2.) Since an answer has not been filed, Plaintiff's motion is prematurely filed. Further, discovery motions are not to be filed with the Court unless and until there is a discovery dispute. Accordingly,

1 Plaintiff's motion for subpoena duces tecum is DENIED as premature.

2  
3 IT IS SO ORDERED.

4 Dated: August 28, 2024

A handwritten signature in blue ink, appearing to read "J. A. Bae", is written over a light gray rectangular background.

UNITED STATES MAGISTRATE JUDGE